

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

TONY B. GASKINS, et. al

V

KATHLEEN DANIELY, et. al

DEFENDANTS

C.A. NO. 05-11230-JLT;
~~05-11230-JLT~~

Declaration In Support Of Plaintiffs
Motion For Temporary Restraining Order
Or/Alternatively Preliminary Injunction

I Dorian F. Simmons declares under the
penalties of Perjury

1. As set out in the Complaint, on or about NOV. 26th, 2004, the defendants collected/confiscated all any regular pens which they issued in the Detention Disciplinary Unit (D.D.U) at MCI Cedar Junction arising from a isolated situation/issue not related to any of the present plaintiffs; And did re-issue smaller Rubber Pens which are flexible and difficult to use.

2. The new pens are not usable when one Plaintiff decides to write out a lengthy letter or attempt to draft out a legible legal document or anything contrary. My use of the regular issued pen has

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Never been questionable nor have I improperly made use of the regular issued pen(s) prior to the change which occurred on the above listed date.

3. My communication with the courts, family members and associated via U.S. mail have been strained due to my difficulty in use of the issued RUBBER PEN(S). In order to get the maximum use of the RUBBER PEN(S), Plaintiff has resorted to altering pen by re-intercing it with several lengths of wet sheets of paper and wrapping around the length of the pen to prevent the occasional bending. This has caused blistering of finger due to the uniformness of the bulked up pen.

4. Constant removal of pen top in order to blow through the opposite end to force ink flow to tip is required after just a few uses of the RUBBER PEN(S) after issued. This has caused a unnecessary mess of clothing and Plaintiff desk where writing is done.

5. THE current practice of Attorney Phone call Privileges are being limited illegally by officers in the Department Detention Unit (D.D.U.) due to a policy layed out by Superintendent D. Abdul (Defendant). To my knowledge Attorney calls are based on a prisoners or Attorney need to con-

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Multicall or the prisoners need to access the Court(s) through ones attorney. Being placed in a Segregation Unit / Unit does not give Defendant(s) the authority to suspend / diminish a prisoners Attorney phone calls, when call is being placed during regulated legal practitioners hours (9AM-5PM) MON - FRI. _____

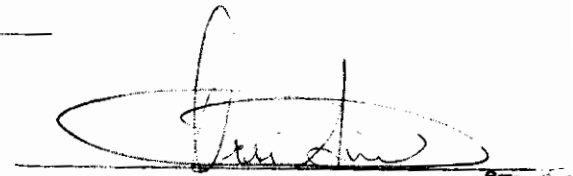
6. THE D.D.U. has no set ISP practice with separates earned personal phone calls which is a privilege and legal/Attorney phone calls that are constitutionally guaranteed. This issue was addressed and grieved by Plaintiff (see attached). The defendant has changed the policy of Attorney phone calls several times prior and after the grievance was received, denied and appealed. . . Defendant Nolan is the Superintendent at MCI Cedar Junction and to date continues to change the attorney phone call policy weekly.

7. As a result of these changes in the policy so frequently it is impossible for Plaintiff to obtain the phone in the AM. hours to make a legal call due to staff assigned to the D.D.U. not knowing which policy is on line at what time. Said staff cant distinguish which policy the defendant is instituting on each day.

8. For all the above reasons the Plaintiff prays the court will grant this motion and a preliminary injunction.

Signed Under the Penals and
Penalties of Perjury _____

DATE 6/20/05


ORRIN SIMMONS PRO-SEC

COMMONWEALTH OF MASSACHUSETTS**DEPARTMENT OF CORRECTION****INMATE GRIEVANCE FORM****FORWARD TO INSTITUTIONAL GRIEVANCE COORDINATOR (IGC)**

Name SIMMONS ORRIN Grievance# 9504 Institution MCI CEDAR JUNCTION

Commit No. W64291 Housing DEPARTMENT Date Of Incident 20050331 Date Of Grievance 20050331

Complaint DISCIPLINARY UNIT
Telephone calls to contact legal representatives such as lawyers, attorney, MCLS, PLAP etc. Staff is not allowing legal phone calls, communication unless earned slip is sued or inmate attorney calls and requests you to contact them first.

This practice is unconstitutional and is blocking an inmate's due process. Communication between inmate and attorney can not be governed by staff members of D.O.C. If attorney/legal phone calls are excessive then recourse could and should be looking towards that inmate not all.

Remedy Requested Discontinue this practice immediately. Will seek judicial recourse and monetary damages.

Staff Recipient Sullivan Daniel CO II

Staff Involved

Signature

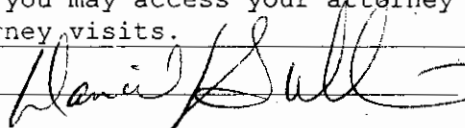
RECEIPT BY INSTITUTIONAL GRIEVANCE COORDINATOR

Date Received 20050402 Decision Date 20050427

Signature Sullivan Daniel CO II

Final Decision DENIED

Decision Pursuant to 103CMR482 specifically 482.09 which states Department Disciplinary Unit or Departmental Segregation Unit- Inmates housed in these special housing units shall have telephone privileges as authorized by the Superintendent. Additionally you may access your attorney through mail correspondence as well as through attorney visits.

Signature  Date 4/27/05

Denied grievances may be appealed to the Superintendent within 10 working days of Institution Grievance Coordinator's decision.

INMATE RECEIPT

Name SIMMONS ORRIN Institution MCI CEDAR JUNCTION

Commit No. W64291 Grievance# 9504 Date Received 20050402

Signature Sullivan Daniel CO II

COMMONWEALTH OF MASSACHUSETTS

#9504

DEPARTMENT OF CORRECTION

INMATE GRIEVANCE APPEAL FORM

FORWARD TO SUPERINTENDENT

Name SIMMONS ORRIN Institution MCI CEDAR JUNCTION
Number W64291 Housing DDU Appeal Date 30-APR-2005 Date Of Grievance 31-MAR-2005
Appeal Received Date 02-MAY-2005
Appeal SEE ATTACHED
Remedy Requested SEE ATTACHED
Staff Recipient Sullivan Daniel CO II
Signature

DECISION BY SUPERINTENDENT

Appeal Received Date 02-MAY-2005 Decision Date Decision
Decision By
Reasons
Signature Date

INMATE RECEIPT

Inmate's Name SIMMONS ORRIN Institution MCI CEDAR JUNCTION
Number W64291 Appeal Received Date 02-MAY-2005
Staff Recipient Sullivan Daniel CO II
Superintendent's Signature *David Nolan*

ATTACHMENT "C"

DEPARTMENT OF CORRECTION
INSTITUTION APPEAL FORM
FORWARD TO THE INSTITUTIONAL SUPERINTENDENT

SECTION A

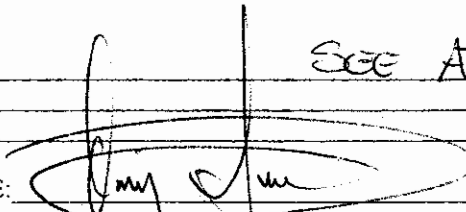
NAME: ORRIN SIMMONS INSTITUTION: MCI CEDAR JUNCTION
 NUMBER: W64291 HOUSING UNIT: C2 #140 DATE OF INCIDENT: 3/3/05
(DDU)
 APPEAL: SEE ATTACHED

(ATTACH ADDITIONAL PAGE IF NECESSARY)

REMEDY
REQUESTED:

SEE ATTACHED

INMATE SIGNATURE:

DATE: 4/30/05

STAFF RECIPIENT:

DATE:

DATE RECEIVED:

SECTION B

ASSIGNED GRIEVANCE NUMBER: _____

ASSIGNED INSTITUTION APPEAL NUMBER: _____

DECISION RENDERED:

☐ APPROVED☐ DENIED

SUMMARY OF FINDINGS:

SUPERINTENDENT'S
SIGNATURE:

DATE: _____

SECTION C

INMATE APPEAL RECEIPT

INMATE NAME: _____ INSTITUTION: _____

NUMBER: _____ DATE RECEIVED: _____

RECEIPTING STAFF: _____ TITLE: _____

05-1558

COMMONWEALTH OF MASSACHUSETTS**DEPARTMENT OF CORRECTION
INMATE GRIEVANCE APPEAL FORM
FORWARD TO SUPERINTENDENT**

#9504

Name SIMMONS ORRIN Institution MCI CEDAR JUNCTION

Number W64291 Housing DDU Appeal Date 30-APR-2005 Date Of Grievance 31-MAR-2005

Appeal Received Date 02-MAY-2005

Appeal SEE ATTACHED

Remedy Requested SEE ATTACHED

Staff Recipient Sullivan Daniel CO II

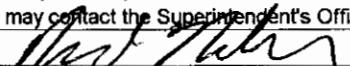
Signature _____

DECISION BY SUPERINTENDENT

Appeal Received Date 02-MAY-2005 Decision Date 01-JUN-2005 Decision DENIED

Decision By Nolan David F SUPERINTENDENT

Reasons I concur with the IGC. Be advised, in accordance with the Department Disciplinary Unit Inmate Handbook, DDU inmates will earn telephone privileges by remaining disciplinary report free. The maximum number of phone slips you can earn in a one-month period is 4. These phone slips are to be used for attorney calls as well as personal calls. In addition, in emergency situations, your attorney may contact the Superintendent's Office to request a phone call from you.

Signature  Date 6/3/05

INMATE RECEIPT

Inmate's Name SIMMONS ORRIN Institution MCI CEDAR JUNCTION

Number W64291 Appeal Received Date 02-MAY-2005

Staff Recipient Sullivan Daniel CO II

Superintendent's Signature _____

COMMONWEALTH OF MASSACHUSETTS**DEPARTMENT OF CORRECTION
INMATE GRIEVANCE APPEAL FORM
FORWARD TO SUPERINTENDENT**

Name SIMMONS ORRIN **Institution** MCI CEDAR JUNCTION
Number W64291 **Housing** DDU **Appeal Date** 30-APR-2005 **Date Of Grievance** 31-MAR-2005
Appeal Received Date 02-MAY-2005
Appeal SEE ATTACHED
Remedy Requested SEE ATTACHED
Staff Recipient Sullivan Daniel CO II
Signature

DECISION BY SUPERINTENDENT

Appeal Received Date 02-MAY-2005 **Decision Date** 01-JUN-2005 **Decision** DENIED


Decision By Nolan David F SUPERINTENDENT

Reasons I concur with the IGC. Be advised, in accordance with the Department Disciplinary Unit Inmate Handbook, DDU inmates will earn telephone privileges by remaining disciplinary report free. The maximum number of phone slips you can earn in a one-month period is 4. These phone slips are to be used for attorney calls as well as personal calls. In addition, in emergency situations, your attorney may contact the Superintendent's Office to request a phone call from you.

Signature

6/21/05 - In accordance with 103 CMR 491, I have reviewed grievance/grievance appeal #9504.

Please be advised that I support the Superintendent's decision to deny your grievance, as I concur with the institutional summary of findings.


 Kristie Ladouceur
 Department Grievance Coordinator

Date

INMATE RECEIPT

Inmate's Name SIMMONS ORRIN **Institution** MCI CEDAR JUNCTION
Number W64291 **Appeal Received Date** 02-MAY-2005
Staff Recipient Sullivan Daniel CO II
Superintendent's Signature